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SUBJECT: RUSSIA DENIES PROTECTION OF VLASTIMIR DJORDJEVIC
AT ICTY/ICTR BRIEFING AT THE SECURITY COUNCIL, JUNE 18

REF: A. STATE 83270

[1](#)B. STATE 82698

[1](#)1. (U) SUMMARY: The Security Council (SC) met June 18 for a briefing on the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The President and Prosecutor of each tribunal made a statement, as did representatives from all fifteen SC members, Bosnia and Herzegovina, Montenegro, Rwanda, and Serbia. Although there were a number of different views expressed by the various speakers, some common themes emerged: the apprehension of fugitive indictees, questions about the ICTY/ICTR completion strategies, and the referral of trials of mid to low ranking indictees to national jurisdictions. Ambassador Jackie W. Sanders made a statement (reftels) that supported Rwanda's bid to hear transfer cases, the international obligations of states to apprehend fugitive indictees for both Tribunals, the need for the international community to help in capacity-building efforts in national judiciaries, and a call for the Tribunals to continue legacy planning. The full text of the U.S. statement is contained in paragraph 13. END SUMMARY.

[1](#)2. (U) ICTY President Fausto Pocar noted the Tribunal,s increased trial and appellate efficiency over the past six months. He said that the ICTY is operating at full capacity, and that eight cases have been tried. He added that a judgment was rendered in the Martić case and that one will soon be rendered in the Mrksić case, and that amendments to the Rules of Procedure and Evidence have enhanced the efficiency of pre-trial and trial proceedings. Pocar warned that the increasing workload of the Appellate Chamber will need to be addressed, and suggested transitioning trial judges to the appellate side in order to forestall this problem. He also said that the referral of cases to national jurisdictions will be marred should the escape of Radovan Stanković go unresolved. Despite this, he urged the SC to fully support domestic jurisdictions in building capacity and strengthening detention facilities. He also noted the heightened compliance of States in apprehending fugitives, most recently Zdravko Tolimir and Vlastimir Djordjević. Lastly, he highlighted the importance of residual issues, including the tribunal,s legacy, the importance of apprehending and trying the four remaining high-level fugitives, and the Tribunal,s efforts to finish trials within the dates set by the Completion Strategy.

[1](#)3. (U) ICTR President Dennis Byron summarized the work done by the Tribunal over the past six months, and addressed issues and challenges presented by the ICTR completion strategy. In summarizing the trials, he concluded that the Trial Chamber has made significant progress on most cases and is on track to complete all but one current case by the end

of 2008. Byron also noted several of the Tribunal's challenges. The most significant challenge will be the interplay between apprehending current fugitive indictees, the need to process the high-level indictees already in custody, the need to transfer some other indictees to national jurisdictions (to gain capacity to process the high-level indictees at the Tribunal), and the role of Member States in supporting national jurisdictions, capacity-building efforts so that all of this can be accomplished. Another challenge Byron highlighted is an increased need for State cooperation in relocating acquitted persons. Byron also underscored the Tribunal's lack of resources, which has resulted in a loss of employees. Finally, he noted Rwanda's improvements in its judicial system and its cooperation with the Tribunal.

¶4. (U) ICTY Prosecutor Carla Del Ponte addressed two issues stemming from the fact that some accused persons remain at large. She said that there is a need for the OSCE to monitor any future trials in domestic jurisdictions so that national governments will not interfere in the judicial process, and noted that the failure to apprehend these persons would have a deleterious effect on the Tribunal's legacy. Del Ponte said that her office had no information on the whereabouts of Radovan Karadzic and Ratko Mladic, and expressed displeasure that regional services have not been able to locate and arrest them. She did, however, note an upswing in cooperation from Serbia and Bosnia and Herzegovina and continued satisfactory cooperation from Croatia, and attributed the Tolimir and Djordjevic arrests to this increased regional cooperation. Del Ponte emphasized that the areas where the Tribunal has had difficulties should not overshadow its efficiency and progress over the past few years. She concluded by urging the SC to support the ICTY so that it can successfully carry out its mandate.

¶5. (U) ICTR Prosecutor Hassan Jallow focused on the referral of cases to national jurisdictions. He noted that only three new cases (not five, as had previously been thought) needed to be transferred. Three have been referred to the Netherlands under Rule 11 bis, and their trials have begun. He emphasized that Rwanda is considered a main possible location for future referrals. Jallow then addressed the need to apprehend the remaining fugitives, soon and with the help of Member States, in order to complete their trials under the normal processes of the ICTR. He stressed that he believed that fugitive Felicien Kabuga is in Nairobi, and asked the SC to pressure Kenya in order to apprehend him. Jallow also reported that he believed that other fugitives are living in the Democratic Republic of Congo. Echoing Byron, he commented on the staff turnover problem and Rwanda's improved cooperation with the Tribunal.

¶6. (U) All 15 SC members made statements. All addressed the ICTY/ICTR completion strategies, although views were mixed: Russia and China declared that completion dates were strict deadlines rather than guidelines, and Russia added that the Tribunals' mandates should not be indefinitely extended even in the case of unapprehended fugitives. Belgium countered that the completion dates are merely estimates, and that considerations of justice outweigh the importance of faithfulness to the completion strategy. The remaining twelve states stressed the importance of balancing considerations of justice and efficiency, and all suggested a stronger focus on residual mechanisms to successfully deal with the challenges posed by the completion strategy timeline. Most speakers addressed the need to apprehend fugitives, and the importance of state cooperation in doing so. Russia did so only in denying a role in concealing Vlastimir Djordjevic's whereabouts prior to his June 17 capture.

¶7. (U) Several member states highlighted the importance of transferring cases to national jurisdictions. Both the UK and France underscored the link between Serbia's cooperation and its European integration. The US, Qatar, South Africa, and Belgium urged the SC and the Tribunals to begin

discussion about ICTY/ICTR legacy functions. Several delegations mentioned that ICTY/ICTR residual issues should also include the Special Court for Sierra Leone. Lastly, Panama noted the possibility that the International Criminal Court could play a role in the residual functions of ICTR and ICTY.

¶18. (U) Milos Prica, the Permanent Representative of Bosnia and Herzegovina to the UN, assured the SC that Bosnia and Herzegovina would continue to cooperate with the ICTY. He also stressed that domestic authorities are developing tactics to prevent people from aiding fugitive escapees, and that no intelligence has indicated the whereabouts of any fugitives within their borders. Finally, he noted Bosnia and Herzegovina's ability and willingness to domestically prosecute ICTY referral cases.

¶19. (U) Martin Ngoga, the Prosecutor-General of Rwanda, framed all of his comments in terms of the importance of Rwandan participation and control of the trials. He urged the SC to avoid looking at the completion strategy as an exit strategy, and to ensure that the fugitives are brought to justice either through the tribunal or within national jurisdictions. He also stressed the Rwandan government's commitment to hearing cases referred from the tribunal, and its preference to have these cases tried where the crimes were committed. To that end, he asked that the SC consider adopting a resolution requiring states to comply with the Rwandan national government in prosecuting cases. Ngoga recognized and thanked the U.S. for its contribution to the Rwandan capacity-building efforts, and requested that other states contribute as well. Lastly, he expressed Rwanda's desire that people convicted in the Tribunal serve their sentences in Rwanda, and that legacy efforts focus on Rwanda (for instance, that Court documents and materials be transferred to Rwanda).

¶10. (U) Pavle Jevremovic, Permanent Representative of the Republic of Serbia to the UN, focused on the impetus for Serbian cooperation with the ICTY and the steps that the Serbian government has taken to facilitate this cooperation. He outlined Serbia's reasons for cooperation, which include international obligations and respect for international war crimes standards, acceptance of European values, a commitment to European integration, and advancement of the process of reconciliation in the former Yugoslavia. As evidence of this cooperation, Jevremovic pointed to Serbian efforts to find, arrest, and transfer indictees, release government officials from the legal obligation to keep official secrets, the

efficient processing and release of documents, the establishment of a National Security Council to apprehend indictees, the establishment of a War Crimes Council to domestically prosecute war crimes, and the harmonization of domestic legislation with ICTY standards.

¶11. (U) Nebojsa Kaludjerovic, Permanent Representative of the Republic of Montenegro, spoke mainly of Montenegro's role in apprehending Djordjevic, and also emphasized Montenegro's past and present willingness to cooperate with the Tribunal.

¶12. (U) Pocar, Byron, Del Ponte, and Jallow gave final remarks and responded to questions that had been posed by Member States. Pocar stressed that the timeline that had been set seven years ago did not take into account current facts, that full transparency regarding completion was necessary, and that the ICTY will try to step up its process to ensure completion by 2010. He responded to Qatar's question on whether the SC should take some punitive action against non-cooperative states by arguing that the SC is currently sending a strong message to these states. Pocar declined to answer Qatar's question on the impact of the SC's plan on Kosovo given that the cases were currently being tried. Byron reiterated that though there were challenges facing the Tribunal, the UN and various states have been working to address these challenges in a manner consistent with the rules of humanitarian international law.

Del Ponte responded to the Russian statement denying protection of Djordjevic by saying that the fact that he was found in Montenegro does not exclude the possibility that he had previously been in Russia. Jallow emphasized the importance of transferring cases to many national jurisdictions, including but not limited to Rwanda (for example, to France).

113. (U) U.S. STATEMENT ON THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA AND THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA, GIVEN BY AMBASSADOR JACKIE W. SANDERS

"Mr. President, I would first like to address the International Criminal Tribunal for Rwanda. We welcome Prosecutor Hassan Jallow, Registrar Adama Dieng, and especially the newly elected President Dennis Byron, and thank them for their continued contributions to the Tribunal. We also wish to thank the hundreds of other staff who, on a daily basis, dedicate their energy and skills to the lasting success and legacy of this Tribunal.

The United States remains strongly committed to the International Criminal Tribunal for Rwanda and commend its efforts to provide justice and accountability to the Rwandan people. They are, after all, the intended beneficiaries of this court and must remain its primary focus.

Responsibility for the success of the Tribunal lies in the hands of many parties. The President, Prosecutor, and Registrar must continue to work toward their Completion Strategy deadlines while also planning for the Tribunal's legacy after its 2010 closure. We applaud the Tribunal's success in meeting many of its previous trial projections. We also encourage a continued, candid dialogue among all parties on challenges facing the Tribunal and recognize our partnership in this process, particularly on residual and legacy issues.

The success of the Tribunal also rests on the shoulders of the Security Council and all UN Member States. The Completion Strategy will involve transferring some cases to domestic jurisdictions and The Netherlands has already accepted one. The Prosecutor has also just filed his first transfer case to Rwanda's domestic jurisdiction. Provided the ICTR finds Rwanda's judiciary meets the fair trial requirements of Rule 11bis, the United States fully supports Rwanda's bid to receive all remaining transfer cases. Our government has met repeatedly with the Rwandan Government, Member States, and Rwandan civil society to encourage and support judicial capacity building efforts and we ask all donors to continue their important contributions to this end. The Security Council, in the Tribunal's founding resolution - Resolution 955 - stressed the need for international cooperation to strengthen the courts and judicial system of Rwanda.⁸ This goal is perhaps more paramount today than at any time in these past 13 years.

We also call on all Member States, particularly the Democratic Republic of the Congo and Kenya, to fulfill their international obligations to apprehend and transfer all ICTR fugitives within their borders. Reports continue to surface that top fugitive and alleged genocide financier, Felicien Kabuga, remains in Kenya. We support Kenya's previous

efforts to apprehend Kabuga but note that seriously robust and concrete steps are now needed as the Tribunal begins to wind down and international pressure mounts to complete its mandate. Nevertheless, all fugitives must know that they do not escape justice by merely outlasting the Tribunal. We will make provisions for their capture and prosecution whether today, tomorrow, or years from now.

We again thank the President, Prosecutor, and Registrar for their service to the Tribunal, to justice and accountability, and to the Rwandan people. We also express our highest praise and gratitude to former ICTR President Erik Mose for his exemplary stewardship and dogged commitment to the

Tribunal,s success during these past four years. His imprint will continually be felt as a part of the Tribunal,s own lasting legacy.

Mr. President, the United States remains a strong supporter - financial and political -- of the UN International Criminal Tribunal for the former Yugoslavia and appreciates the hard work of the President, Prosecutor and Registrar.

The focus of the Tribunal and the international community should now be on the road ahead. We must work together to ensure that, over its final years, the Tribunal successfully fulfills its mandate, namely to bring to justice the persons who are most responsible for war crimes committed in the former Yugoslavia. Specifically, this will involve apprehending the remaining fugitives, expeditiously completing the work at hand, and planning for eventual closure.

We call on all states to fulfill their legal obligations to cooperate fully with the ICTY, including by arresting and transferring the remaining fugitive indictees. In this regard, the United States welcomes the recent apprehensions of Zdravko Tolimir and Vlastimir Djordjevic and the close cooperation between the Serbian, Montenegrin, and Republika Srpska authorities that facilitated these arrests.

The United States calls on Serbia to take further steps to fulfill its obligations, in particular through the apprehension and transfer to the Tribunal of all fugitive who may be on Serbian territory, including Ratko Mladic and Radovan Karadzic. Mladic and Karadzic have been charged with terrible crimes, including the Srebrenica genocide, and it is unthinkable that they would escape international justice. The United States therefore calls upon the Tribunal, its partners in the international community, and States in the region to take all necessary steps to ensure that they are apprehended before the Tribunal closes. In the event they are not apprehended before that time, we call on the international community to take appropriate measures to ensure that they face international justice.

The United States appreciates the work of the President and Prosecutor to increase Tribunal efficiency and meet the Tribunal,s Completion Strategy targets as endorsed by the Security Council. In particular, we welcome the unprecedented step of running seven trials simultaneously; appreciate the positive example set by the Trial Chambers in the Milutinovic et al. and Prlic et al. cases in scheduling hearings during the upcoming recess period, and recognize the many, less visible efforts that the Tribunal staff make on a daily basis to increase efficiency. In this light, and in the context of the recent arrests of Tolimir and Djordjevic, the United States notes that all trials should conclude by the end of 2008, or as soon thereafter as is feasible. We also call on the Tribunal to take all possible steps to complete appeals by the end of 2010, and ask that it report to the Security Council further measures it feels are necessary to meet this goal.

The success of the Completion Strategy does not depend solely on the Tribunal, however. The international community can help by supporting the Tribunal,s efforts to help build capacity for domestic trials. We note the significant work being done in the region in this regard, and urge other states to contribute to domestic war crimes prosecutions either through direct financial assistance or in-kind contributions.

On this occasion, as Prosecutor Carla Del Ponte delivers her final report to the Council, the United States would like to express its appreciation for her service at the ICTY. She deserves to be commended for her role, over the past eight years, as a forceful champion of international justice and accountability.

The United States notes with appreciation the recent joint

paper on Legacy and Residual Functions of the ad hoc
Tribunals, and asks that the Tribunals continue to plan their
legacy functions, in close coordination with the Security
Council."

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